



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**  
**Item # 12**  
**6/17/10**

**DATE:** June 10, 2010  
**TO:** Montgomery County Planning Board  
**VIA:** Rose Krasnow, Chief, Development Review *RK*  
Ralph Wilson, Zoning Supervisor *RW*  
**FROM:** Greg Russ, Zoning Coordinator *GR*  
Cathy Conlon, Subdivision Supervisor  
**REVIEW TYPE:** Subdivision Regulation Amendment  
**PURPOSE:** Generally amend the Subdivision Regulations to allow parcel owners with certain legally built single family detached dwelling to use the minor subdivision procedures.

**SUBDIVISION REGULATION AMENDMENT: 10-02**

**INTRODUCED BY:** At the Request of the Planning, Housing, and Economic Development Committee

**INTRODUCED DATE:** May 18, 2010

**PLANNING BOARD REVIEW:** June 17, 2010

**COUNCIL PUBLIC HEARING:** June 22, 2010; 1:30pm

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**STAFF RECOMMENDATION** Staff recommends approval of SRA 10-02 as introduced to allow parcel owners with certain legally built single family detached dwellings to be able to record their property by using the minor subdivision procedures rather than having to go through the full preliminary plan process.

**BACKGROUND/ANALYSIS**

The most commonly applied exception for existing dwellings on unrecorded parcels is the *Single residential lot* exception in Section 50-9(f). This exception permits a building permit to be issued for an unrecorded parcel that has not changed in size or shape since June 1, 1958, without the need to record the parcel by plat. Many existing dwellings qualify for this exception, but a problem arises if a property owner has changed the shape and size of the parcel on which the existing dwelling was originally built. In these instances, the parcel must be recorded before the issuance of a building permit, and in some cases, recordation is not possible because the zoning of the underlying land has changed over the years leaving the changed parcel too small to qualify for recordation under the new zone. This leaves the existing dwelling in jeopardy because it prevents issuance of a building permit for replacement of the dwelling should it become necessary.

A Zoning Text Amendment (ZTA 10-03) was recently adopted to address the problem described above by adding an exemption to the Zoning Ordinance that permits an unplatted parcel that contains an existing dwelling to be recorded under the area and dimensional standards of the zone in which the property was classified when the dwelling was built. The subject amendment to the Subdivision Regulations will permit the parcels that are eligible for this new exemption to be platted under the minor subdivision approval procedures provided that applicable road dedication is made and adequate water and sewerage service are available to the property.

Staff supports the proposed amendment because the properties that are affected contain existing dwellings, not new development. The language of the amendment ensures that necessary road dedication will be made and adequate facilities will be available to the lots. Other things such as forest conservation and stormwater management that would normally be taken into consideration if the lots were being created as part of a preliminary plan, will be handled through either the building permit or sediment control permit process.

CC/GR

#### Attachments

1. Proposed SRA No. 10-02

# ATTACHMENT 1

Ordinance No.:  
Subdivision Regulation Amend. No.: 10-02  
Concerning: Minor Subdivisions-Applicability  
Revised: 5/10/10; Draft No. 1  
Introduced: May 18, 2010  
Public Hearing:  
Adopted:  
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Planning, Housing, and Economic Development Committee

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**AN AMENDMENT** to the Subdivision Regulations to:

- allow parcel owners with certain legally built single family detached dwelling to use the minor subdivision procedures; and
- generally amend the provisions concerning minor subdivisions.

By amending

Montgomery County Code  
Chapter 50, Subdivision of Land  
Section 50-35A, Minor Subdivision-Approval Procedure

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

## ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

**Sec. 1. Section 50-35A is amended as follows:**

Sec. 50-35A. Minor Subdivisions-Approval Procedure.

(a) *Preliminary Plan Not Required.* The submission of a preliminary subdivision plan, in accordance with the provisions of Sec. 50-34 and Sec. 50-35, is not required for:

\* \* \*

(6) Plats for Certain Residentially Zoned Parcels Created by Deed [Prior to] Before June 1, 1958. [While recognizing the] Although a single residential parcel [exemption of Sec.] may qualify for an exception to platting under Section 50-9([e] f), [an owner may voluntarily submit a plat to record such a parcel under the minor subdivision procedure provided that] if the parcel is developable for only one single-family[,detached] detached dwelling unit, then an owner may submit a plat to record such a parcel under the minor subdivision procedure.

\* \* \*

(8) Plats for Certain Residential Lots located in the Rural Density Transfer Zone. Up to [five] 5 lots are permitted under the minor subdivision procedure in the RDT zone [provided that] if a pre-preliminary plan is submitted and approved by either the Planning Board or Planning Board staff, [in accordance with] under the procedures for submission and approval of a pre-preliminary plan of subdivision. In addition:

[a.](A) Written approval for a proposed septic area must be received from the Montgomery County Department of Permitting Services, Well and Septic Section [prior to recordation of] before recording the plat;

27 [b.](B) Any required street dedications along the frontage of the  
28 proposed lots[,] must be shown on the record plat;

29 [c.](C) An easement must be recorded for the balance of the  
30 property noting that density and TDRs have been [utilized] used  
31 for the new lots. Reference to this easement must be [reflected]  
32 noted on the record plat for the lots; [and]

33 [d.](D) Lots created in the RDT [Zone] zone through the minor  
34 subdivision procedure must not exceed an average lot size of  
35 [five (5)] 5 acres in size unless approved by the Planning Board  
36 in the review of a pre-preliminary plan of subdivision[.]; and

37 [e.](E) Forest conservation requirements must be satisfied [prior  
38 to] before recording the plat.

39 (9) Parcels that satisfy Section 59-B-8.1 of Chapter 59 may be platted  
40 under the minor subdivision procedure if:

41 (A) Any required street dedications along the frontage of the  
42 proposed lots is shown on the record plat.

43 (B) There is adequate sewerage and water service to the property,  
44 which may be either public service or approved private septic  
45 system/private well.

46 (b) *Procedure for Platting a Minor Subdivision.* The owner of property that  
47 satisfies the requirements for a minor subdivision[, as specified in Sec.]  
48 under Section 50-35A(a), above, may submit an application for record plat  
49 for approval [in accordance with the provisions of Sec.] under Section 50-36  
50 and [Sec.] Section 50-37 [of this Chapter]. In the case of minor subdivisions  
51 described in [Sec.] Sections 50-35A, (1), (3) and (4), if no additional  
52 development is proposed, then no additional public improvements may be

53 required by the reviewing agencies beyond those required for the original  
54 subdivision[, and provided that no additional development is proposed].

55 (c) Minor subdivision approvals are not subject to the resubdivision criteria of  
56 Section 50-29(b)(2) [of this Code].

57 (d) Any lot created through the minor subdivision process and any lot replatted  
58 as part of a minor lot line adjustment must satisfy all applicable zoning  
59 requirements [as contained] in Chapter 59 [of this Code].

60 (e) A minor lot line adjustment cannot be used to establish a precedent for a  
61 resubdivision that may be filed for other properties located in the same  
62 block, subdivision, or neighborhood.

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64 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of  
65 Council adoption.

66 *Approved:*

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Isiah Leggett, County Executive Date

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71 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council Date